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ALFREDO MALDONADO

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALFREDO MALDONADO,

Defendant.

Case No. 3:18-cr-00277-EMC

SENTENCING MEMORANDUM

Date: March 20, 2019
Time: 2:30 p.m.
The Honorable Edward M. Chen

Defendant Alfredo Maldonado, by and through his attorney Daniel L. Barton, hereby submits this Sentencing Memorandum for the Court's consideration in connection with Mr. Maldonado's sentencing.

INTRODUCTION

Defendant requests that the Court impose no more than the mandatory minimum sentence of five years. This sentence is a severe and above-the-Sentencing Guidelines result appropriate for Mr. Maldonado, who is a dedicated father and hard worker who became involved in dealing drugs at a low level to sustain his own substance abuse habits that he developed while self-medicating his chronic pain and untreated mental health issues. Mr. Maldonado has no prior felony convictions. But for the mandatory minimum, the Sentencing Guidelines would call for a shorter sentence for his current offense.

ARGUMENT

I. Mandatory Minimum Is Appropriate Under the Guidelines

In the negotiated Plea Agreement, the United States and Mr. Maldonado's attorney jointly calculated the total offense level appropriate for Mr. Maldonado's sentence as a level 23. This calculation is premised on a base level offense of 24 (USSG § 2D1.1(c)(8)), a two-point increase for presence of a firearm (USSG § 2D1.1(b)(I)), and a three-point reduction for acceptance of responsibility (USSG § 3E1.1).

The Probation Office agrees with this calculation as well and finds that defendant has a Criminal History Category of I. The criminal history calculation is based on a misdemeanor battery from 2011 for which Mr. Maldonado received 2 days of jail time.

With a Criminal History Category of I and an adjusted offense level of 23, Mr. Maldonado falls into Zone D and has a guideline range of 46 – 57 months. Due to the quantity of methamphetamine Mr. Maldonado is charged with, however, 21 U.S.C. § 841 is triggered and imposes a mandatory minimum sentence of 60 months for his offense.

Mr. Maldonado agrees with the Guidelines calculations made in both the Plea Agreement and Presentence Report and believes no circumstances surrounding his offense warrant increasing his sentence not only beyond his guidelines range but beyond the mandatory minimum as well. Indeed, the Presentence Report notes that defendant's minimal criminal history, significant work history and likely deportation may be considered mitigating factors.

II. A Sentence of Sixty Months Is Appropriate Under the Factors in 18 U.S.C. § 3553(a)

The factors in 18 U.S.C. § 3553(a) favor a sentence of no more than the mandatory minimum.

a. The Nature and Circumstances of the Offense, 18 U.S.C. § 3553(a)(1)

One of the factors to be considered under section 3553(a) in determining the appropriate sentence is the nature and circumstances of the offense. Here, Mr. Maldonado sold methamphetamine in order to finance his personal drug habits, for which, prior to his current incarceration, he had not received treatment since he was 17 years old. His drug habits developed over a life of pain management following an early childhood spinal injury from a life-threatening fall from a horse, which doctors originally

1 believed would render Mr. Maldonado unable to walk and which in fact required lengthy and extensive
2 rehabilitation.

3 Mr. Maldonado is forthcoming about his drug addiction. At the time of his arrest, he was a
4 habitual user of marijuana, cocaine, methamphetamine, and Vicodin, using the former two daily and the
5 latter two roughly twice a week. These habits took up a sizable portion of his income and eventually led
6 Mr. Maldonado to begin selling drugs himself to try to sustain. Despite his addiction, Mr. Maldonado
7 succeeded in maintaining a successful auto repair shop business and in supporting his wife and three
8 children. Mr. Maldonado now regrets neglecting to seek treatment for his drug habits and intends to do so
9 in the future, as his wife has long pushed him to do.

10 Mr. Maldonado's low-level dealing as a symptom of his own addiction is not the type of offense
11 that warrants an above-guidelines sentence. Rather, he and society will be best served by giving him the
12 drug treatment he needs and then allowing him to reintegrate such that he is able to cope with his
13 physical pain and memories of abuse without the use of self-medication.

14 **b. The History and Characteristics of the Defendant, 18 U.S.C. § 3553(a)(1)**

15 Mr. Maldonado is a very hard worker with entrepreneurial aspirations who is also an extremely
16 dedicated and loving father. His childhood, however, was trying if not traumatic, leading to many of the
17 mental health issues he is currently dealing with while receiving treatment in prison.

18 Mr. Maldonado was born in Ajijic, Mexico, as one of six children to a father who worked as a
19 landscaper/laborer and a mother who worked as a homemaker and sold trinkets at the schools. His father
20 had serious anger management issues and physically abused Mr. Maldonado, along with his mother and
21 siblings, leading Mr. Maldonado to live in fear of him. His mother was stretched extremely thin trying to
22 watch after six children on her own, such that Mr. Maldonado generally recalls little supervision from his
23 parents on the day to day as a child, even though Ajijic was pervaded by an intense cartel presence.

24 Along with his father's physical abuse, Mr. Maldonado was physically abused by a family friend
25 when he was 5 years old. This family friend threatened to harm Mr. Maldonado if he disclosed the
26 details of the event to anyone, such that Mr. Maldonado stayed silent and suffered the ensuing trauma in
27 private. He reports recurring and intrusive memories of the abuse.

1 Mr. Maldonado dropped out of school after finishing eighth grade in order to work fulltime for his
2 family. Several years after meeting his future wife, the two decided to emigrate to Seattle, Washington,
3 at age 22, where Mr. Maldonado worked as a self-employed welder. They had their first child while
4 living there, after which time they moved to Redwood City, California, and had two more children.

5 In Redwood City, Mr. Maldonado worked as a mechanic for Auto Care of Redwood Shores, but
6 he aspired to run his own business. After ten years of working at Auto Care of Redwood Shores, he and
7 his older brother Gustavo founded Pilot Auto Care of San Mateo. Opening his own business came with
8 many obstacles though, including a monthly income that was significantly lower than what he had been
9 receiving at Auto Care of Redwood Shores. Mr. Maldonado struggled to pay his monthly family and
10 business bills, especially since he had an addiction that was expensive to maintain.

11 Mr. Maldonado's family is his true pride and joy. Prior to his incarceration, he spent most of his
12 free time with his wife and kids, picnicking in parks, shopping in flea markets, sharing in a passion for
13 soccer and attending St. Matthew's Church of San Mateo. His family now suffers acutely in his absence.
14 His wife has been forced to reenter the workforce as a babysitter and still struggles to singlehandedly
15 support the family. And Mr. Maldonado's children miss their father's affection, as he was an integral
16 part of their lives prior to his arrest. His youngest child, Dalia, also suffers from a heart condition that
17 previously necessitated heart bypass surgery. Mr. Maldonado is now forced to worry about all the issues
18 that arise from afar -- sharply aware of his inability to participate in solving the family's problems --
19 instead of being able to provide real personal and financial fatherly support.

20 While Mr. Maldonado has long suffered from what had previously been untreated depression and
21 anxiety, his arrest and removal from his family led to a rapid decline in his mental state complete with
22 suicidal ideations. His persistent feelings of isolation and remorse for his past decisions eventually led
23 Mr. Maldonado to attempt suicide while in custody. He has since been placed on suicide watch and
24 prescribed medication to manage his symptoms.

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CONCLUSION

For the reasons stated above, Mr. Maldonado respectfully requests that the Court not impose a sentence in excess of the mandatory minimum term of sixty months.

Respectfully submitted,

/s/

Daniel L. Barton
Attorney for Defendant Alfredo Maldonado